

## § 230.16

projects. The term monitoring will be interpreted as that oversight activity necessary to ensure that the decision, including required mitigation measures, is implemented.

### § 230.16 Lead and cooperating agencies.

Lead agency, joint lead agency, and cooperating agency designation and responsibilities are covered in 40 CFR 1501.5 and 1501.6. The district commander is authorized to enter into agreements with regional offices of other agencies as required by 40 CFR 1501.5(c). District or division commanders will consult with HQUSACE (CECW-RE), WASH DC 20314-1000 prior to requesting resolution by CEQ as outlined by 40 CFR 1501.5 (e) and (f).

(a) *Lead Agency.* The Corps will normally be lead agency for Corps civil works projects and will normally avoid joint lead agency arrangements. Lead agency status for regulatory actions will be determined on the basis of 40 CFR 1501.5(c).

(b) *Corps as a Cooperating Agency.* For cooperating agency designation the Corps area of expertise or jurisdiction by law is generally flood control, navigation, hydropower and Corps regulatory responsibilities. See Appendix II of CEQ regulations (49 FR 49750, December 21, 1984).

### § 230.17 Filing requirements.

Five copies of draft, final and supplement EISs should be sent to: Director, Office of Federal Activities (A-104), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. District commanders should file draft EISs and draft supplements directly with EPA. Final EISs and final supplements should be filed by appropriate elements within HQUSACE for feasibility and reevaluation reports requiring Congressional authorization. Division commanders should file final EISs and final supplements for all other Corps actions except for final EISs or final supplements for permit actions which should be filed by the district commander after appropriate reviews by division and the incorporation of division's comments in the EIS. HQUSACE and/or division will notify field office counterparts when to cir-

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culate the final EIS or final supplement and will file the final document with EPA after notified that distribution of the document has been accomplished.

(a) *Timing requirements.* Specific timing requirements regarding the filing of EISs with EPA are discussed in 40 CFR 1506.10. District commanders will forward any expedited filing requests with appropriate supporting information through channels to CECW-RE. Once a decision is reached to prepare an EIS or supplement, district commanders will establish a time schedule for each step of the process based upon considerations listed in 40 CFR 1501.8 and upon other management considerations. The time required from the decision to prepare an EIS to filing the final EIS normally should not exceed one year (46 FR 18037, March 23, 1981). For feasibility, continuing authority, or reevaluation studies, where the project's study time is expected to exceed 12 months, the timing of the EIS should be commensurate with the study time. In appropriate circumstances where the costs of completing studies or acquiring information for an EIS (*i.e.*, cost in terms of money, time, or other resources) would be exorbitant, the district commander should consider using the mechanism described in 40 CFR 1502.22, as amended. In all cases, however, it is the district commander's responsibility to assure that the time-limit established for the preparation of an EIS or supplement is consistent with the purposes of NEPA.

(b) *Timing requirements on supplements.* Minimum review periods will be observed for draft and final supplements covering actions not having a bearing on the overall project for which a final EIS has been filed. Such supplements should not curtail other ongoing or scheduled actions on the overall project which have already complied with the procedural requirements of NEPA.

### § 230.18 Availability.

Draft and final EISs and supplements will be available to the public as provided in 40 CFR 1502.19 and 1506.6. A summary may be circulated in lieu of the EIS, as provided in 40 CFR 1502.19,

if the statement is unusually long. These documents will normally be made available without charge except that, in unusual circumstances, reproduction costs may be recovered in accordance with 40 CFR 1506.6(f) from recipients other than those required by CEQ to receive the complete EIS.

#### § 230.19 Comments.

District commanders shall request comments as set forth in 40 CFR 1503 and 1506.6. A lack of response may be presumed to indicate that the party has no comment to make.

(a) *Time extensions.* District commanders will consider and act on requests for time extensions to review and comment on an EIS based on timeliness of distribution of the document, prior agency involvement in the proposed action, and the action's scope and complexity.

(b) *Public Meetings and Hearings.* See 40 CFR 1506.6(c). Refer to paragraph 12, 33 CFR part 325, Appendix B for regulatory actions.

(c) *Comments received on the draft EIS.* See 40 CFR 1503.4. District commanders will pay particular attention to the display in the final EIS of comments received on the draft EIS. In the case of abbreviated final EISs, follow 40 CFR 1503.4(c). For all other final EISs, comments and agency responses thereto will be placed in an appendix in a format most efficient for users of the final EIS to understand the nature of public input and the district commander's consideration thereof. District commanders will avoid lengthy or repetitive verbatim reporting of comments and will keep responses clear and concise.

(d) *Comments received on the final EIS.* Responses to comments received on the final EIS are required only when substantive issues are raised which have not been addressed in the EIS. In the case of feasibility reports where the final report and EIS, Board of Engineers for Rivers and Harbors (CEBRH) or Mississippi River Commission (CEMRC) report, and the proposed Chief's report are circulated for review, incoming comment letters will normally be answered, if appropriate, by CECW-P. After the review period is over, CECW-P will provide copies of all

incoming comments received in HQUSACE to the district commander for use in preparing the draft record of decision. For all other Corps actions except regulatory actions (See 33 CFR part 325, Appendix B), two copies of all incoming comment letters (even if the letters do not require an agency response) together with the district commander's responses (if appropriate) and the draft record of decision will be submitted through channels to the appropriate decision authority. In the case of a letter recommending a referral under 40 FR part 1504, reporting officers will notify CECW-RE and request further guidance. The record of decision will not be signed nor any action taken on the proposal until the referral case is resolved.

(e) *Commenting on other agencies' EISs.* See 40 CFR 1503.2 and 1503.3. District commanders will provide comments directly to the requesting agency. CECW-RE will provide comments about legislation, national program proposals, regulations or other major policy issues to the requesting agency. See Appendix III of CEQ regulations. When the Corps is a cooperating agency, the Corps will provide comments on another Federal agency's draft EIS even if the response is no comment. Comments should be specific and restricted to areas of Corps jurisdiction by law and special expertise as defined in 40 CFR 1508.15 and 1508.26, generally including flood control, navigation, hydropower, and regulatory responsibilities. See Appendix II of CEQ regulations.

#### § 230.20 Integration with State and local procedures.

See 40 CFR 1506.2.

#### § 230.21 Adoption.

See 40 CFR 1506.3. A district commander will normally adopt another Federal agency's EIS and consider it to be adequate unless the district commander finds substantial doubt as to technical or procedural adequacy or omission of factors important to the Corps decision. In such cases, the district commander will prepare a draft and final supplement noting in the draft supplement why the EIS was considered inadequate. In all cases, except